

WEST BOUNTIFUL CITY

ORDINANCE #345-12

AN ORDINANCE AMENDING CHAPTER 17.60, CONDITIONAL USES, OF THE WEST BOUNTIFUL MUNICIPAL CODE TO UPDATE AND CLARIFY LANGUAGE TO MORE CLOSELY REFLECT THE CURRENT APPLICATIONS FOR CONDITIONAL USES PERMITS.

WHEREAS, the West Bountiful City Council recognizes the need for regular review of the land use code; and

WHEREAS, modifications are necessary to update and clarify existing language to more closely reflect current and new applications for conditional use permits, such as farm animals and accessory dwelling units, and

WHEREAS, clarifications are made regarding expiration and temporary suspension of conditional use permits, and

WHEREAS, the West Bountiful City Planning Commission held public hearings, after proper notice, on April 24, 2012 and received no objection to the proposed changes.

NOW, THEREFORE BE IT ORDAINED BY THE GOVERNING BODY OF WEST BOUNTIFUL CITY, UTAH, THAT CHAPTER 17.60, CONDITIONAL USES, BE AMENDED AS INDICATED IN ATTACHED EXHIBIT A.

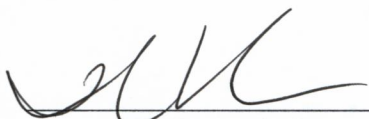
This ordinance will become effective upon signing and posting.

Adopted this 5th day of June, 2012.

By:


Ken Romney, Mayor

Attest:


Heidi Voordeckers, City Recorder



Voting by the City Council:	Aye	Nay
Councilmember Ahlstrom	<u>ABSENT</u>	_____
Councilmember Bruhn	<u>X</u>	_____
Councilmember McKean	<u>X</u>	_____
Councilmember Preece	<u>X</u>	_____
Councilmember Tovey	<u>X</u>	_____

Chapter 17.60 CONDITIONAL USES

Sections:

17.60.010 Purpose and intent.

17.60.020 Conditional Use permit--When required.

17.60.030 Planning commission approval required.

17.60.040 Determination to issue conditional use permit.

17.60.050 General inspection.

17.60.060 General and performance standards for conditional uses and conditional use developments.

17.60.070 Expiration of permit.

17.60.080 Review and revocation of permit.

17.60.090 Farm animals.

17.60.010 Purpose and intent.

The purpose and intent of this chapter is to promote the health, safety, convenience and general welfare of the inhabitants of the city. This chapter accomplishes this by providing sufficient flexibility to allow in certain areas compatible integration of uses which are related to the permitted uses of the district or are of a temporary nature, but which may be suitable only in certain locations and/or under certain development conditions.

17.60.020 Conditional use permit--When required.

A conditional use permit shall be required for all uses classified as conditional in this title.

17.60.030 Planning commission approval required.

- A. Conditional uses are subject to approval by the planning commission in districts permitting such uses under this title.
- B. Public Hearings. A public hearing may be held on the conditional use application when deemed by the planning commission to be in the public interest. However, in the following instances the holding of a public hearing shall be mandatory:

1. The planning commission determines that existing streets and thoroughfares are not suitable and adequate to carry anticipated traffic, and increased densities resulting from the proposed use may generate traffic in such amounts as to overload the street network outside the district;
2. The planning commission determines that increases in traffic, light, odor or environmental pollution generated by the proposed use may significantly change the intended characteristics of the district as outlined in this title;
3. The planning commission determines that the architectural design of the proposed use varies significantly from the architectural characteristics of the district, as outlined in this title, in which such use is proposed.

17.60.040 Determination to issue conditional use permit.

- A. A conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.
- B. If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use may be denied.
- C. As used in this section, "applicable standards" means the requirements of this chapter and all other applicable requirements of the Municipal Code.
- D. In order to approve a conditional use, the planning commission shall consider whether:
 1. The proposed use at the particular location is necessary or desirable to provide a service or facility that will contribute to the general well-being of the neighborhood and the community;
 2. The proposed use, under the circumstances of the particular case, will not be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity;
 3. The proposed use and/or accompanying improvements will not inordinately impact schools, utilities, and streets;
 4. The proposed use will provide for appropriate buffering of uses and buildings, proper parking and traffic circulation, the use of building materials and landscaping which are in harmony with the area, and compatibility with adjoining uses;
 5. The proposed use will comply with the regulations and conditions specified in the land use ordinance for such use;
 6. The proposed use will conform to the intent of the city's general plan; and

7. The conditions to be imposed in the conditional use permit will mitigate the reasonably anticipated detrimental effects of the proposed use and accomplish the purposes of this subsection.
- E. To assist the planning commission in its review, the applicant, at his or her cost, shall provide any report and/or study relating to utilities, traffic impact, school impact, soil and water impact, existing conditions, line-of-sight and building massing, and any other information reasonably requested by the City.
- F. Conditional use approval may include limitations or requirements as to street or trail dedication; the height, size, location and design of structures; landscaping; density; ingress; egress; fencing; parking; lighting; noise; hours of operation; and similar obligations or restrictions intended to mitigate the reasonably anticipated detrimental effects of the proposed use. Height, density and size requirements for structures in each zone are maximums, and may be reduced or modified as conditions of approval of any conditional use.

17.60.050 General inspection.

Each property for which a conditional use permit application is submitted is subject to an inspection to ensure compliance with the Municipal Code and to determine appropriate conditions for issuance of a conditional use permit. Following the issuance of a conditional use permit, the city may inspect the property from time to time to verify compliance with the Municipal Code and the conditions established in the conditional use permit. For uses involving buildings or construction, the city, at its discretion, may require the applicant or permit holder to pay for an inspection by a building inspector. In all other cases, City staff may perform the inspection.

17.60.060 General and performance standards for conditional uses and conditional use developments.

Applicants for conditional use permits shall meet all specific requirements of the city building code, land development and zoning codes, including those set forth in the subdivision ordinance and the city's development standards and specifications, as they apply to the zone for which the permit is requested. The planning commission may establish additional requirements related to the health, safety and welfare of area residents.

17.60.070 Expiration of permit.

- A. Every conditional use permit shall expire and become null and void if the use authorized by the permit has not been commenced within one hundred eighty (180) days. If the permit holder files a written application for an extension before the expiration of the permit and presents satisfactory evidence that unusual difficulties have prevented commencement of the use within the specified time limit, the zoning administrator may grant a reasonable extension of time, up to an additional one hundred eighty (180) days, to commence the use. Commencement of the use includes applying for and obtaining all necessary building permits and other permits for the proposed use.

- B. A conditional use permit for uses which are of a temporary nature may be issued for the intended duration of the temporary use, as determined by the planning commission in its sole discretion, or for two years if no other time frame is stipulated.

17.60.080 Review and Revocation of permit; Temporary Suspension.

- A. Conditional use permits under this chapter are subject to review by the planning commission upon complaint.
- B. No conditional use permit shall be modified, revoked or suspended for more than 30 days without a hearing before the planning commission. The permit holder shall be notified in writing of the hearing and the grounds for convening the hearing. Such notice shall be served on the permit holder by registered or certified mail or personal service at least seven (7) days prior to the hearing, which may be held at a public meeting. At the hearing, the permit holder shall be given an opportunity to be heard, and may call witnesses and present evidence. Following the hearing, the planning commission shall determine whether the permit shall remain in place, whether additional or different conditions shall be imposed, or whether the permit shall be suspended or revoked. The permit holder may appeal the planning commission's decision to the city council in the manner provided in Chapter 17.08.
- C. Notwithstanding the foregoing, the zoning administrator may impose a temporary suspension on a conditional use, not to exceed thirty (30) days, under the circumstances described in this subsection. Before imposing a temporary suspension, the zoning administrator must find, after investigation, that:
 - 1. The permit holder has violated the conditions of the permit, or has violated the provisions of the Municipal Code or other laws applicable to the conditional use, and
 - 2. The violation has caused, or is likely to cause, immediate or irreparable harm to the health, safety, or welfare of persons in the community.

The temporary suspension will be effective immediately upon notification to the permit holder, which may be effected in any reasonable manner, including by posting on the property and, at the same time, following up with certified mail.

17.60.090 Farm animals.

Conditional uses involving farm animals are subject to the provisions of this chapter, with the following exceptions:

- A. Any conditional use permit allowing increased density of farm animals on a property shall expire upon sale of the property.
- B. The provisions of the ordinance allowing farm animals on the property shall govern any inconsistent provision of this chapter.

- C. In approving a conditional use, the planning commission may impose conditions with regard to setbacks; control of animal waste, debris, noise, odor, and drainage; and prevention of damage to adjacent properties, as well as any other reasonable condition allowed under this chapter, in order to mitigate the reasonably anticipated detrimental effects of the proposed use.

Chapter 17.60 CONDITIONAL USES

Sections:

17.60.010 Purpose and intent.

17.60.020 Conditional Use permit--When required.

17.60.030 ~~Affirmative findings for issuance of permit~~Planning commission approval required.

17.60.040 Determination to issue conditional use permit.

17.60.050 General inspection.

17.60.060 General and performance standards for conditional uses and conditional use developments.

17.60.070 Expiration of permit.

17.60.080 Review and Revocation of permit.

17.60.090 Farm animals.

17.60.010 Purpose and intent.

The purpose and intent of this chapter is to promote the health, safety, convenience and general welfare of the inhabitants of the city. This chapter accomplishes this by providing sufficient flexibility to allow in certain areas compatible integration of uses which are related to the permitted uses of the district or are of a temporary nature ~~only~~, but which may be suitable only in certain locations and/or under certain development conditions. ~~(Prior code 5-9-18-1)~~

17.60.020 Conditional use permit--When required.

A conditional use permit shall be required for all uses classified as conditional in this title. ~~(Prior code 5-9-18-2)~~

17.60.030 ~~Affirmative findings for issuance of permit~~Planning commission approval required.

- A. Conditional uses ~~may be approved~~are subject to approval by the planning commission in districts permitting such uses ~~in under~~ this title. ~~Before approval of such a use is granted, a report to the city council by the planning commission shall find that the proposed development will meet the requirements of this title.~~

B. Public Hearings. A public hearing may be held on the conditional use application when deemed by the planning commission to be in the public interest. However, in the following instances the holding of a public hearing shall be mandatory:

1. The planning commission determines that existing streets and thoroughfares are not suitable and adequate to carry anticipated traffic, and increased densities resulting from the proposed use may generate traffic in such amounts as to overload the street network outside the district;
2. The planning commission determines that increases in miscellaneous traffic, light, odor or environmental pollution generated by the proposed use may significantly change the intended characteristics of the district as outlined in this title;
3. The planning commission determines that the architectural design of the proposed use varies significantly from the architectural characteristics of the district, as outlined in this title, in which such use is proposed.

C. Exceptions.

- ~~1. The planning commission may authorize exceptions to any of the requirements and regulations related to conditional uses. Application for any exception shall be made by a verified petition of the applicant. The petition shall state fully the grounds of the application and the facts relied upon by the petitioner. Such petition shall be filed with the conditional use permit application. In order for the land referred to in the petition to come within the provisions of this section, the planning commission shall find all of the following facts with respect thereto:~~
 - ~~a. That the land is of such shape or size, or is affected by such physical conditions, or is subject to such title limitations of record that it is impossible or impractical for the developer to comply with all of the regulations of this title;~~
 - ~~b. That the exception is necessary for the preservation and enjoyment of a substantial property right by the petitioner; and~~
 - ~~c. That the granting of the extension exception will not be detrimental to the public welfare or injurious to other property in the vicinity of the subject property.~~
- ~~2. Each proposed exception shall be referred to the officers or agencies involved, and such officers or departments zoning administrator, who shall transmit to the planning commission their recommendations, which Said recommendations shall be reviewed prior to the granting of any exceptions.~~
- ~~3. The planning commission shall hold a public hearing on the proposed exception, after which it may approve the conditional use permit application with the exceptions and conditions it deems necessary, or it may disapprove such conditional use permit~~

~~application. Any such approval or disapproval shall be accompanied by written findings of fact and conclusions. (Prior code § 9-18-3)~~

17.60.040 Determination to issue conditional use permit.

- A. A conditional use ~~permit~~ shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with ~~the~~ applicable standards.
- B. If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use may be denied.
- C. As used in this section, "applicable standards" means the requirements of this chapter and all other applicable to conditional uses include all the requirements of this chapter the Municipal Code.
- D. In order to approve a conditional use, the planning commission shall consider whether and consideration of the following:
 - 1. The proposed use at the particular location is necessary or desirable to provide a service or facility that will contribute to the general well-being of the neighborhood and the community;
 - 2. The proposed use, under the circumstances of the particular case, will not be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity;
 - 3. The proposed use and/or accompanying improvements ~~shall~~ will not inordinately impact schools, utilities, and streets;
 - 4. The proposed use will put emphasis on, provide for appropriate buffering of uses and buildings, proper parking and traffic circulation, ~~and~~ the use of building materials and landscaping which are in harmony with the area, and compatibility with adjoining uses;
 - 4. The proposed use will comply with the regulations and conditions specified in the ~~zoning~~ land use ordinance for such use;
 - 5. The proposed use will conform to the intent of the city's general plan; and
 - 6. The conditions to be imposed ~~to issuance of~~ the conditional use permit will mitigate the reasonably anticipated detrimental effects of the proposed use and accomplish the purposes of this subsection ~~be complied with.~~
- 7E. To assist the planning commission in its review, The applicant, at his or her cost, shall provide any report and/or study relating to utilities, traffic impact, school impact, soil and water impact,

existing conditions, line-of-sight and building massing, and any other information reasonably requested by the City ~~in order to render a proper decision.~~

- F. ~~Conditions of approval of a~~ Conditional use approval may include limitations or requirements as to street or trail dedication; the height, size, location and design of structures; landscaping; density; ingress; egress; fencing; parking; lighting; noise; hours of operation; and similar obligations or restrictions intended to mitigate the reasonably anticipated detrimental effects of the proposed use. Height, density and size requirements for structures in each zone are maximums, and may be reduced or modified as conditions of approval of any conditional use.

17.60.050 General inspection.

Each property for which a conditional use permit application is submitted is subject to an inspection to ensure compliance with the Municipal Code and to determine appropriate conditions for issuance of a conditional use permit. Following ~~t~~he issuance of a conditional use permit, ~~by the planning commission, the City building inspector shall inspect~~ may inspect the property from time to time to verify to insure such use to insure that development is undertaken and completed in compliance with the Municipal Code and the conditions established in the conditional use permit. For uses involving buildings or construction, the City, at its discretion, may require the applicant or permit holder to pay for an inspection by a building inspector. ~~(Prior code § 9-18-5)(Building inspector for building uses, staff for farm animals, etc.)~~ In all other cases, City staff may perform the inspection.

17.60.060 General and performance standards for conditional uses and conditional use developments.

Applicants for conditional use permits shall meet all specific requirements of the city building code, land development and zoning codes, including those set forth in the subdivision ordinance and the city's development standards and specifications, as they apply to the zone ~~in which the use~~ for which the permit is requested ~~shall be developed~~. The planning commission may establish additional requirements related to the health, safety and welfare of area residents. ~~(Prior code § 9-18-6)~~

17.60.070 Expiration of permit.

- A. Every conditional use permit shall expire and become null and void if the work use authorized by the permit has not been commenced within one hundred eighty (180) days, ~~or is not completed within one year from date of issuance.~~ However, the zoning administrator may, if the permit holder files a written application for an extension before the expiration of the permit and presents satisfactory evidence that unusual difficulties have prevented commencement of the use work being started or completed within the specified time limits, the zoning administrator may grant a reasonable extension of time, up to an additional one hundred eighty (180) days, to commence the use if written application is made before the expiration date of the permit. Commencement of the use includes applying for and obtaining all necessary building permits and other permits for the proposed use.
- B. A conditional use permit for uses which are of a temporary nature ~~only~~ may be issued for the intended duration of the temporary use, as determined by the planning commission in its sole

discretion, or for two years if no other time frame is stipulated, whichever period of time is shorter.

17.60.080 Review and Revocation of permit; Temporary Suspension.

- A. Conditional use permits under this chapter are subject to review by the planning commission upon complaint.
- B. No conditional use permit shall be ~~permanently~~ modified, revoked or suspended for more than 30 days until a hearing is held by ~~without a hearing before~~ the planning commission. The ~~permit holder~~ holder shall be notified in writing of ~~such the~~ the hearing and the grounds for ~~its~~ convening the hearing. ~~unless the permit holder requested the hearing in response to a temporary suspension of the permit.~~ Such notices shall be served on the permit holder by registered or certified mail or personal service ~~on the permittee~~ on the permit holder at least ~~five~~ seven (7) days prior to the ~~date set for the~~ hearing, which. ~~The hearing may be held at a public meeting. unless the planning commission determines a public hearing is necessary.~~ At ~~any such the~~ the hearing, the ~~permittee~~ permit holder shall be given an opportunity to be heard, and ~~he~~ he may call witnesses and present evidence ~~on his behalf.~~ Upon conclusion of Following the hearing, the planning commission shall determine whether the permit shall remain in place, whether additional or different conditions shall be imposed, or whether the permit shall be suspended or revoked. ~~In the event the determination is to suspend or revoke the permit,~~ The permittee-permit holder may appeal the planning commission's decision to the city council in the manner provided in ~~Section 16.24.020~~ Chapter 17.08. ~~(Prior code 5 9-18-8)~~
- C. Notwithstanding the foregoing, the zoning administrator may impose a temporary suspension on a conditional use, not to exceed thirty (30) days, under the circumstances described in this subsection. Before imposing a temporary suspension, the zoning administrator must find, after investigation, that:
1. The permit holder has violated the conditions of the permit, or has violated the provisions of the Municipal Code or other laws applicable to the conditional use, and
 2. The violation has caused, or is likely to cause, immediate or irreparable harm to the health, safety, or welfare of persons in the community.

The temporary suspension will be effective immediately upon notification to the permit holder, which may be effected in any reasonable manner, including by posting on the property, and, at the same time, following up with certified mail.

17.60.090 Farm animals.

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- C. In approving a conditional use, the planning commission may impose conditions with regard to setbacks; control of animal waste, debris, noise, odor, and drainage; and prevention of damage to adjacent properties, as well as any other reasonable condition allowed under this chapter, in order to mitigate the reasonably anticipated detrimental effects of the proposed use.